

AMENDED IN ASSEMBLY AUGUST 18, 2016

AMENDED IN ASSEMBLY JUNE 15, 2016

AMENDED IN SENATE AUGUST 18, 2015

**SENATE BILL**

**No. 139**

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**Introduced by Senator Galgiani**

(Principal coauthor: Assembly Member Lackey)

January 26, 2015

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An act to amend Sections 11357.5 and 11375.5 of, and to add Section 11375.7 to, the Health and Safety Code, and to amend Section 1000.5 of the Penal Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 139, as amended, Galgiani. Controlled substances.

Existing law makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, distribute, furnish, administer, or give, or possess for sale, any synthetic stimulant compound or any specified synthetic stimulant derivative. Existing law also makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, distribute, furnish, administer, or give, or possess for sale, any synthetic cannabinoid compound or any synthetic cannabinoid derivative. Existing law, beginning January 1, 2016, makes it an infraction to use or possess those drugs.

This bill would expand the definition of a synthetic stimulant compound and a synthetic cannabinoid compound for purposes of existing law. ~~law~~ *and would exclude from that definition substances that are in the federal clinical trial process, as specified.* The bill would

provide that a first offense of using or possessing these substances is punishable as an infraction, a 2nd offense is punishable as an infraction or a misdemeanor, and a 3rd or subsequent offense is punishable as a misdemeanor. By expanding the scope of existing crimes and by increasing the penalty for existing crimes, the bill would impose a state-mandated local program. *The bill would authorize the synthetic cannabinoid compounds to be obtained and used for bona fide research, instruction, or analysis if that possession and use does not violate federal law.*

Existing law authorizes the court, together with the district attorney and public defender, to conduct a preguilty plea drug court program pursuant to specified provisions in which proceedings are suspended without a plea of guilty for designated defendants. Existing law sets forth procedures that apply to these programs.

This bill would authorize a person charged with certain crimes relating to synthetic stimulant compounds or synthetic cannabinoid compounds to be eligible to participate in those preguilty plea drug court programs. The bill would set forth additional procedures that would apply in determining eligibility and compliance with the program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Drug addiction or dependence is a chronically relapsing
- 4 disease or condition.
- 5 (b) The benefits of drug treatment are cumulative and the fact
- 6 that a person has not completed a prior program or course of
- 7 treatment does not establish that the person would not benefit from
- 8 further or additional treatment.

SEC. 2. Section 11357.5 of the Health and Safety Code is amended to read:

11357.5. (a) Every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, or possesses for sale any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, to any person, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Every person who uses or possesses any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, is guilty of a public offense, punishable as follows:

(1) A first offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250).

(2) A second offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250) or a misdemeanor punishable by imprisonment in a county jail not exceeding six months, a fine not exceeding five hundred dollars (\$500), or by both that fine and imprisonment.

(3) A third or subsequent offense is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(c) As used in this section, the term “synthetic cannabinoid compound” refers to any of the following ~~substances~~: *substances or an analog of any of the following substances*:

(1) Adamantoylindoles or adamantoylindazoles, which includes adamantyl carboxamide indoles and adamantyl carboxamide indazoles, or any compound structurally derived from 3-(1-adamantoyl)indole, 3-(1-adamantoyl)indazole, 3 - ( 2 - a d a m a n t o y l ) i n d o l e , N-(1-adamantyl)-1H-indole-3-carboxamide, or N-(1-adamantyl)-1H-indazole-3-carboxamide by substitution at the nitrogen atom of the indole or indazole ring with alkyl, haloalkyl, alkenyl, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further

substituted in the indole or indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent, including, but not limited to, 2NE1, 5F-AKB-48, AB-001, AKB-48, AM-1248, JWH-018 adamantyl carboxamide, STS-135.

(2) Benzoylindoles, which includes any compound structurally derived from a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidiny)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including, but not limited to, AM-630, AM-661, AM-679, AM-694, AM-1241, AM-2233, RCS-4, WIN 48,098 (Pravadoline).

(3) Cyclohexylphenols, which includes any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidiny)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the cyclohexyl ring to any extent, including, but not limited to, CP 47,497, CP 55,490, CP 55,940, CP 56,667, cannabicyclohexanol.

(4) Cyclopropanoylindoles, which includes any compound structurally derived from 3-(cyclopropylmethanoyl)indole, 3-(cyclopropylmethanone)indole, 3-(cyclobutylmethanone)indole or 3-(cyclopentylmethanone)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent.

(5) Naphthoylindoles, which includes any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl)ethyl group,

1 1 - ( N - m e t h y l - 2 - p y r r o l i d i n y l ) m e t h y l ,  
2 1-(N-methyl-3-morpholinyl)methyl, or  
3 (tetrahydropyran-4-yl)methyl group, whether or not further  
4 substituted in the naphthyl ring to any extent, including, but not  
5 limited to, AM-678, AM-1220, AM-1221, AM-1235, AM-2201,  
6 AM-2232, EAM-2201, JWH-004, JWH-007, JWH-009, JWH-011,  
7 JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-022,  
8 JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070,  
9 JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080,  
10 JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116,  
11 JWH-120, JWH-122, JWH-148, JWH-149, JWH-164, JWH-166,  
12 JWH-180, JWH-181, JWH-182, JWH-189, JWH-193, JWH-198,  
13 JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234,  
14 JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242,  
15 JWH-258, JWH-262, JWH-386, JWH-387, JWH-394, JWH-395,  
16 JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413,  
17 JWH-414, JWH-415, JWH-424, MAM-2201, WIN 55,212.

18 (6) Naphthoynaphthalenes, which includes any compound  
19 structurally derived from naphthalene-1-yl-(naphthalene-1-yl)  
20 methanone with substitutions on either of the naphthalene rings  
21 to any extent, including, but not limited to, CB-13.

22 (7) Naphthoypyrroles, which includes any compound  
23 structurally derived from 3-(1-naphthoyl)pyrrole by substitution  
24 at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl,  
25 cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
26 cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl,  
27 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
28 1-(N-methyl-3-morpholinyl)methyl, or  
29 (tetrahydropyran-4-yl)methyl group, whether or not further  
30 substituted in the pyrrole ring to any extent and whether or not  
31 substituted in the naphthyl ring to any extent, including, but not  
32 limited to, JWH-030, JWH-031, JWH-145, JWH-146, JWH-147,  
33 JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246,  
34 JWH-292, JWH-293, JWH-307, JWH-308, JWH-309, JWH-346,  
35 JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368,  
36 JWH-369, JWH-370, JWH-371, JWH-373, JWH-392.

37 (8) Naphthylmethylindenes, which includes any compound  
38 containing a naphthylideneindene structure or which is structurally  
39 derived from 1-(1-naphthylmethyl)indene with substitution at the  
40 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl,

1 hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
2 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or  
3 1-(N-methyl-2-pyrrolidinyl)methyl,  
4 1-(N-methyl-3-morpholinyl)methyl, or  
5 (tetrahydropyran-4-yl)methyl group, whether or not further  
6 substituted in the indene ring to any extent and whether or not  
7 substituted in the naphthyl ring to any extent, including, but not  
8 limited to, JWH-171, JWH-176, JWH-220.

9 (9) Naphthylmethylindeles, which includes any compound  
10 structurally derived from an H-indol-3-yl-(1-naphthyl) methane  
11 by substitution at the nitrogen atom of the indole ring by alkyl,  
12 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
13 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
14 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
15 1-(N-methyl-3-morpholinyl)methyl, or  
16 (tetrahydropyran-4-yl)methyl group, whether or not further  
17 substituted in the indole ring to any extent and whether or not  
18 substituted in the naphthyl ring to any extent, including, but not  
19 limited to, JWH-175, JWH-184, JWH-185, JWH-192, JWH-194,  
20 JWH-195, JWH-196, JWH-197, JWH-199.

21 (10) Phenylacetylindeles, which includes any compound  
22 structurally derived from 3-phenylacetylindele by substitution at  
23 the nitrogen atom of the indole ring with alkyl, haloalkyl,  
24 cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
25 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
26 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
27 1-(N-methyl-3-morpholinyl)methyl, or  
28 (tetrahydropyran-4-yl)methyl group, whether or not further  
29 substituted in the indole ring to any extent and whether or not  
30 substituted in the phenyl ring to any extent, including, but not  
31 limited to, cannabipiperidiethanone, JWH-167, JWH-201,  
32 JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207,  
33 JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-250,  
34 JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305,  
35 JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315,  
36 JWH-316, RCS-8.

37 (11) Quinolinylindelecarboxylates, which includes any  
38 compound structurally derived from  
39 quinolin-8-yl-1H-indole-3-carboxylate by substitution at the  
40 nitrogen atom of the indole ring with alkyl, haloalkyl, benzyl,

halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the quinoline ring to any extent, including, but not limited to, BB-22, 5-Fluoro-PB-22, PB-22.

(12) Tetramethylcyclopropanoylindoles, which includes any compound structurally derived from 3-tetramethylcyclopropanoylindole, 3-(1-tetramethylcyclopropyl)indole, 3-(2,2,3,3-tetramethylcyclopropyl)indole or 3-(2,2,3,3-tetramethylcyclopropylcarbonyl)indole with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropanoyl ring to any extent, including, but not limited to, 5-bromo-UR-144, 5-chloro-UR-144, 5-fluoro-UR-144, A-796,260, A-834,735, AB-034, UR-144, XLR11.

(13) Tetramethylcyclopropane-thiazole carboxamides, which includes any compound structurally derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent, whether or not substituted in the tetramethylcyclopropyl ring to any extent, including, but not limited to, A-836,339.

(14) Unclassified synthetic cannabinoids, which includes all of the following:

(A) AM-087, (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-tetramethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

- 1 (B) AM-356, methanandamide, including (5Z,8Z,11Z,14Z)-N-  
2 (1R)-2-hydroxy-1-methylethyl]icosa-5,8,11,14-tetraenamide and  
3 arachidonyl-1'-hydroxy-2'-propylamide.
- 4 (C) AM-411, (6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6  
5 a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.
- 6 (D) AM-855, (4aR,12bR)-8-hexyl-2,5,5-trimethyl-1  
7 ,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol.
- 8 (E) AM-905, (6aR,9R,10aR)-3-[(E)-hept-1-enyl]-9-(hydrox  
9 ymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydroben  
10 zo[c]chromen-1-ol.
- 11 (F) AM-906, (6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydrox  
12 ymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydroben  
13 zo[c]chromen-1-ol.
- 14 (G) AM-2389, (6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6  
15 a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1  
16 ,9 diol.
- 17 (H) BAY 38-7271, (-)-(R)-3-(2-Hydroxymethylindanyl-4-o  
18 xy)phenyl-4,4,4-trifluorobutyl-1-sulfonate.
- 19 (I) CP 50,556-1, Levonantradol, including 9-hydroxy-6-methyl-  
20 3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenant  
21 hridin-1-yl]acetate; [(6S,6aR,9R, 10aR)-9-hydroxy-6-methyl-3-  
22 (2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahy  
23 drophenanthridin-1-yl]acetate; and [9-hydroxy-6-methyl-3-[5-  
24 phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenan  
25 thridin-1-yl]acetate.
- 26 (J) HU-210, including (6aR,10aR)-9-(hydroxymethyl)-6,6-d  
27 imethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]  
28 chromen-1-ol; [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(  
29 2-methyl octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
30 o l and 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol.
- 31 (K) HU-211, Dexanabinol, including (6aS, 10aS)-9-(hydroxy  
32 methyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-t  
33 etrahydrobenzo[c]chromen-1-ol and (6aS, 10aS)-9-(hydroxy  
34 methyl)-6,6-dimethyl- 3-(2-methyloctan-2-yl)-6a,7,10,10a-t  
35 etrahydrobenzo[c]chromen-1-ol.
- 36 (L) HU-243, 3-dimethylheptyl-11-hydroxyhexahydrocannabinol.
- 37 (M) HU-308, [(91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-  
38 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol.



- 1 (N) HU-331, 3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-m  
2 ethylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1  
3 ,4-dione.
- 4 (O) HU-336, (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-  
5 t etrahydro-1H-benzo[c]chromene-1,4(6H)-dione.
- 6 (P) JTE-907, N-(benzol[1,3]dioxol-5-ylmethyl)-7-methoxy-2-  
7 o xo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide.
- 8 (Q) JWH-051, ((6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-  
9 y l)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol.
- 10 (R) JWH-057 (6aR,10aR)-3-(1,1-dimethylheptyl)-6a,7,10,10a-  
11 t etrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran.
- 12 (S) JWH-133 (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-  
13 t etrahydro -6,6,9-trimethyl-6H-dibenzo[b,d]pyran.
- 14 (T) JWH-359, (6aR,10aR)- 1-methoxy- 6,6,9-trimethyl- 3-[(2R)-  
15 1 ,1,2-trimethylbutyl]- 6a,7,10,10a-tetrahydrobenzo[c]chromene.
- 16 (U) URB-597 [3-(3-carbamoylphenyl)phenyl]-N-cyclohexylcarb  
17 amate.
- 18 (V) URB-602 [1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexyl  
19 ester; OR cyclohexyl [1,1'-biphenyl]-3-ylcarbamate.
- 20 (W) URB-754 6-methyl-2-[(4-methylphenyl)amino]-4H-3,1-b  
21 enzoxazin-4-one.
- 22 (X) URB-937 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl cyc  
23 lohexylcarbamate.
- 24 (Y) WIN 55,212-2, including (R)-(+)-[2,3-dihydro-5-methyl-3  
25 -(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1  
26 -naphthalenylmethanone and [2,3-Dihydro-5-methyl-3-(4-morp  
27 holinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-n  
28 apthalenylmethanone.
- 29 (d) *The substances or analogs of substances identified in*  
30 *subdivision (c) may be lawfully obtained and used for bona fide*  
31 *research, instruction, or analysis if that possession and use does*  
32 *not violate federal law.*
- 33 (e) *As used in this section, “synthetic cannabinoid compound”*  
34 *does not include either of the following:*
  - 35 (1) *Any substance for which there is an approved new drug*  
36 *application, as defined in Section 505 of the federal Food, Drug,*  
37 *and Cosmetic Act (21 U.S.C. Sec. 355) or which is generally*  
38 *recognized as safe and effective for use pursuant to Section 501,*  
39 *502, and 503 of the federal Food, Drug, and Cosmetic Act and*  
40 *Title 21 of the Code of Federal Regulations.*

1     (2) *With respect to a particular person, any substance for which*  
2 *an exemption is in effect for investigational use for that person*  
3 *pursuant to Section 505 of the federal Food, Drug, and Cosmetic*  
4 *Act (21 U.S.C. Sec. 355), to the extent that the conduct with respect*  
5 *to that substance is pursuant to the exemption.*

6     SEC. 3. Section 11375.5 of the Health and Safety Code is  
7 amended to read:

8     11375.5. (a) Every person who sells, dispenses, distributes,  
9 furnishes, administers, or gives, or offers to sell, dispense,  
10 distribute, furnish, administer, or give, any synthetic stimulant  
11 compound specified in subdivision (c), or any synthetic stimulant  
12 derivative, to any person, or who possesses that compound or  
13 derivative for sale, is guilty of a misdemeanor, punishable by  
14 imprisonment in a county jail not to exceed six months, or by a  
15 fine not to exceed one thousand dollars (\$1,000), or by both that  
16 fine and imprisonment.

17     (b) Every person who uses or possesses any synthetic stimulant  
18 compound specified in subdivision (c), or any synthetic stimulant  
19 derivative, is guilty of a public offense, punishable as follows:

20     (1) A first offense is an infraction punishable by a fine not  
21 exceeding two hundred fifty dollars (\$250).

22     (2) A second offense is an infraction punishable by a fine not  
23 exceeding two hundred fifty dollars (\$250) or a misdemeanor  
24 punishable by imprisonment in a county jail not exceeding six  
25 months, a fine not exceeding five hundred dollars (\$500), or by  
26 both that fine and imprisonment.

27     (3) A third or subsequent offense is a misdemeanor punishable  
28 by imprisonment in a county jail not exceeding six months, or by  
29 a fine not exceeding one thousand dollars (\$1,000), or by both that  
30 fine and imprisonment.

31     (c) Unless specifically excepted, or contained within a  
32 pharmaceutical product approved by the United States Food and  
33 Drug Administration, or unless listed in another schedule,  
34 subdivisions (a) and (b) apply to any material, compound, mixture,  
35 or preparation which contains any quantity of a *substance or analog*  
36 *of a substance*, including its salts, isomers, esters, or ethers, and  
37 salts of isomers, esters, or ethers whenever the existence of such  
38 salts, isomers, esters, or ethers, and salts of isomers, esters, or  
39 ethers is possible, that is structurally derived from

1 2-amino-1-phenyl-1-propanone by modification in one of the  
2 following ways:

3 (1) By substitution in the phenyl ring to any extent with alkyl,  
4 alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether  
5 or not further substituted in the phenyl ring by one or more other  
6 univalent substituents.

7 (2) By substitution at the 3-position with an alkyl substituent.

8 (3) By substitution at the nitrogen atom with alkyl or dialkyl  
9 groups, or by inclusion of the nitrogen atom in a cyclic structure.

10 (d) This section shall not prohibit prosecution under any other  
11 provision of law.

12 SEC. 4. Section 11375.7 is added to the Health and Safety  
13 Code, to read:

14 11375.7. (a) Unless otherwise excluded pursuant to this  
15 section, a person charged with a misdemeanor pursuant to  
16 *paragraph (3) of subdivision (b) of Section 11357.5 or paragraph*  
17 *(3) of subdivision (b) of 11375.5* shall be eligible to participate in  
18 a preguilty plea drug court program, as described in Section 1000.5  
19 of the Penal Code.

20 (b) Notwithstanding any other law, a positive test for use of a  
21 controlled substance, any other drug that may not be possessed  
22 without a prescription, or alcohol shall not be grounds for dismissal  
23 from the program, unless the person is not making progress in the  
24 program. The court shall consider any report or recommendation  
25 of the treatment provider in making this determination. It shall be  
26 presumed that a person engaged in a program is making progress,  
27 unless that presumption is defeated by clear and convincing  
28 evidence. The person may offer evidence or an argument that he  
29 or she would benefit from and make progress in a different program  
30 or mode. If the court so finds, it may place the person in a different  
31 treatment program.

32 (c) Notwithstanding any other law, the following persons are  
33 excluded from participation in the program under this section:

34 (1) Any person with a history of violence that indicates that he  
35 or she presents a current risk of violent behavior currently or during  
36 the treatment program. This ground for exclusion shall be  
37 established by clear and convincing evidence.

38 (2) Any person required to register as a sex offender pursuant  
39 to Section 290, unless the court finds by clear and convincing  
40 evidence that the person does not present a substantial risk of

1 committing sexual offenses currently or through the course of the  
2 program and the person would benefit from the program, including  
3 that treatment would reduce the risk that the person would sexually  
4 reoffend.

5 (3) Any person that the treatment provider concludes is  
6 unamenable to any and all forms of drug treatment. The defendant  
7 may present evidence that he or she is amenable to treatment and  
8 the court may retain the person in the program if the court finds  
9 that the person is amenable to treatment through a different  
10 provider or a different mode of treatment.

11 (d) Notwithstanding any other law, a prior conviction for an  
12 offense involving a controlled substance or drug that may not be  
13 possessed without a prescription, including a substance listed in  
14 Section 11357.5 or 11375.5, is not grounds for exclusion from the  
15 program, unless the court finds by clear and convincing evidence  
16 that the person is likely to engage in drug commerce for financial  
17 gain, rather than for purposes of obtaining a drug or drugs for  
18 personal use.

19 SEC. 5. Section 1000.5 of the Penal Code is amended to read:

20 1000.5. (a) (1) The presiding judge of the superior court, or  
21 a judge designated by the presiding judge, together with the district  
22 attorney and the public defender, may agree in writing to establish  
23 and conduct a preguilty plea drug court program pursuant to the  
24 provisions of this chapter, wherein criminal proceedings are  
25 suspended without a plea of guilty for designated defendants. The  
26 drug court program shall include a regimen of graduated sanctions  
27 and rewards, individual and group therapy, urine analysis testing  
28 commensurate with treatment needs, close court monitoring and  
29 supervision of progress, educational or vocational counseling as  
30 appropriate, and other requirements as agreed to by the presiding  
31 judge or his or her designee, the district attorney, and the public  
32 defender. If there is no agreement in writing for a preguilty plea  
33 program by the presiding judge or his or her designee, the district  
34 attorney, and the public defender, the program shall be operated  
35 as a deferred entry of judgment program as provided in this chapter.

36 (2) A person charged with a misdemeanor under *paragraph (3)*  
37 *of subdivision (b) of* Section 11357.5 or *paragraph (3) of*  
38 *subdivision (b) of* 11375.5 of the Health and Safety Code shall be  
39 eligible to participate in a preguilty plea drug court program

1 established pursuant to this chapter, as set forth in Section 11375.7  
2 of the Health and Safety Code.

3 (b) The provisions of Section 1000.3 and Section 1000.4  
4 regarding satisfactory and unsatisfactory performance in a program  
5 shall apply to preguilty plea programs, except as provided in  
6 Section 11375.7 of the Health and Safety Code. If the court finds  
7 that (1) the defendant is not performing satisfactorily in the  
8 assigned program, (2) the defendant is not benefiting from  
9 education, treatment, or rehabilitation, (3) the defendant has been  
10 convicted of a crime specified in Section 1000.3, or (4) the  
11 defendant has engaged in criminal conduct rendering him or her  
12 unsuitable for the preguilty plea program, the court shall reinstate  
13 the criminal charge or charges. If the defendant has performed  
14 satisfactorily during the period of the preguilty plea program, at  
15 the end of that period, the criminal charge or charges shall be  
16 dismissed and the provisions of Section 1000.4 shall apply.

17 SEC. 6. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 SEC. 7. This act is an urgency statute necessary for the  
27 immediate preservation of the public peace, health, or safety within  
28 the meaning of Article IV of the Constitution and shall go into  
29 immediate effect. The facts constituting the necessity are:

30 In order to prevent any harm that may be caused by the controlled  
31 substances described in this act at the earliest possible time, it is  
32 necessary that this act take effect immediately.